IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 198 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ANDARSINGH CHIMANSINGH ZALA

Versus

STATE OF GUJARAT

Appearance:

MR MAHENDRA K PATEL for Petitioner No. 1

MR BY MANKAD, APP for Respondent No. 1

MR RJ GOSWAMI for Respondent No. 2

CORAM : MR.JUSTICE J.R.VORA

Date of decision: 03/10/2001

ORAL JUDGEMENT

1 Heard learned Advocate Mr. Mahendra K.Patel for the petitioner, learned APP Mr.B.Y.Mankad for respondent No.1 State of Gujarat and learned Advocate Mr.R.J. Goswami for respondent No.2.

2. The present petitioner was complainant in Criminal Case No. 692 of 1996 and the present respondent No.2 was the accused. The present petitioner filed a private complaint in the Court of learned JMFC, Mehsana, against respondent No.2 for the offences punishable under Sections 406 and 420 of the Indian Penal Code, which was sent by the Magistrate for the Police investigation under Section 156(3) of the Cri. Procedure Code and pursuance of that, a charge sheet was filed against the present respondent No.2 for the offences punishable under Sections 420, 406. After recording of the evidence, learned Magistrate vide his order dated 29th June, 2000, acquitted the accused - respondent No.2 herein of the charges framed against him under Sections 420 and 406 of the Indian Penal Code. While so far as Mudamal jeep was concerned, the learned Magistrate passed the order that the Jeep bearing No. GJ-2-T-3178 which was in possession of the accused respondent No.2 herein be handed over to the complainant - petitioner herein. This order, only in respect of muddamal Jeep was challenged by the accused before the Sessions Court at Mehsana vide Criminal Appeal No. 26 of 2000. Learned Addl. Sessions Judge, Mehsana, vide his order dated 27th February, 2001, allowed the Appeal of the accused in respect of muddamal Jeep and the order of the Magistrate handing over the muddamal Jeep to the complainant was quashed. Learned Addl. Sessions Judge, Mehsana, further directed the Chief Judicial Magistrate, Mehsana, to hold an inquiry regarding muddamal Jeep under Section 452 of the Cri. Procedure Code. It was further directed by the Addl. Sessions Judge to complete the inquiry within three months from the date of order i.e. 27th February, 2001. This order of the Learned Addl. Sessions Judge, Mehsana, is under challenge in this Revision Applicaton.

3. It was urged on behalf of the petitioner that the Jeep, the subject matter of inquiry before the Chief Judicial Magistrate, Mehsana, as per the order impugned of the learned Addl. Sessions Judge, has been in possession of the accused and inquiry is not being yet even initiated though it was to be completed within three months from 27th February, 2001 as directed by the learned Addl. Sessions Judge. It was urged that on facts the complainant has a good case and, therefore, the interference of this Court is required.

4. From the rival contentions, the matter stands that the learned Addl. Sessions Judge has directed the Chief Judicial Magistrate to inquire in the matter

regarding delivery the possession of the Jeep under Sections 452 of the Cri. Procedure Code. Inquiry was to be completed within three months from 27th February, 2001. At this juncture, since the inquiry is pending, this Court would not interfere in the order impugned though it is submitted that since this Revision Application is pending in this Court, the inquiry proceedings are not in progress. In fact since there is no stay on such inquiry, the learned Chief Judicial Magistrate ought to have proceeded with the inquiry as directed by the Addl. Sessions Judge. Therefore, without interfering the order impugned, learned Chief Judicial Magistrate, Mehsana, is directed to proceed with the inquiry as directed by learned Addl. Sessions Judge vide his order dated 27.2.2001 and complete the same within one month from the date of the receipt of the writ of this order or producing a certified copy of this order by any of the parties. Learned Advocate Mr. Goswami for the original accused makes a statement that he will not ask for any adjournment in the inquiry and he will co-operate with the Court and the complainant in completing the inquiry as directed by this Court.

4. In this view of the matter, this Revision Application is disposed of with the above mentioned direction. Rule is discharged.

(J.R. Vora, J.)

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